

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268

RECEIVED

2013 OCT 23 A 11:09

In the Matter of

Received

OCT 17 2013

POSTAL REGULATORY  
COMMISSION  
OFFICE OF THE SECRETARY

Docket No.:

Stamford, CT 06904

Office of PAGR

National Post Office Collaborate, Petitioner

## PARTICIPANT STATEMENT

1. The Petitioner, the National Post Office Collaborate, on behalf of its members (including local postal patrons) appeals the Postal Service's closing of the Stamford, Connecticut Post Office, located at 421 Atlantic Street, which it posted on or about September 18, 2013, for permanent closure two days later, on September 20, 2013. See enclosed copies of notices posted at the Stamford Post Office, Exhibit A.

2. In accordance with applicable law, 39 U.S.C. §404(d)(5), the Petitioner requests the Postal Regulatory Commission to review the Postal Service's closing, and retain jurisdiction at least until a further Administrative Record is available.<sup>1</sup>

3. Pursuant to 39 U.S.C. §404(d)(5), the Collaborate requests that this Commission suspend the effectiveness of the Postal Service's determination to permanently close the Stamford Post Office until the final disposition of this appeal.<sup>2</sup>

4. The Petitioner sets forth the following reasons why it believes the Postal Service's determination to close should be reversed and returned to the Postal Service for further consideration, or retained for further review:

a. The Postal Service does not have a new location from which to provide services to local postal patrons, and in the absence of post office boxes, patrons are "required to pick up their mail at 317 West Avenue in Stamford" during the West Avenue Post Office's open business hours. Without a replacement facility

<sup>1</sup> Based on past experience, Petitioner fully anticipates that the Postal Service will promptly file a motion to dismiss, characterizing the Stamford Post Office closure as either an "emergency suspension" or a "relocation" and arguing that this Commission does not have jurisdiction to hear this appeal. Petitioner respectfully urges this Commission, when it receives the inevitable motion, to allow petitioners the opportunity to respond to the jurisdictional challenge before routinely granting the Postal Service's motion.

<sup>2</sup> The Petitioner notes that the Commission has explicit statutory authority to grant suspensions of the Postal Service's actions, unlike the Postal Service's manufactured authority to close stations and branches, or to suspend or relocate post offices, under its own interpretation of the statutory requirements regarding discontinuance procedures...however reasonable that interpretation has been perceived to be.

to provide postal services, the Postal Service's actions constitute a closing. Moreover, the Postal Service's posted notice to the public is unequivocal: the Stamford Post Office "will permanently close on Friday, September 20, 2013."

b. The Postal Service did not provide 60 days notice to customers, employees and other persons affected by the closure of the Stamford Post Office, nor did the Postal Service conduct public hearings or solicit meaningful public input or consider the impact of closing on the local community, as required by 39 C.F.R. 241.3.

c. The Postal Service was set to close the sale of the Stamford Post Office to the Cappelli Family Limited Partnership on Wednesday, September 25, 2013, pursuant to a sale agreement entered almost a year previously, in December, 2012. Cappelli is a developer that intends to tear down at least a portion of the historic property to build high-rise luxury apartment buildings. The Postal Service did not comply with Postal Regulations regarding the National Environmental Protection Act (NEPA) or the National Historic Preservation Act (NHPA), and intended to sell the property without regard to the public's investment in and the community's long-term use of the historic property.

i. Under the National Environmental Policy Act ("NEPA"), all federal agencies must consider the environmental effects of any major federal action.<sup>3</sup> When considering proposed actions, the Postal Service has a stated policy to "[e]mphasize environmental issues and alternatives," and particularly where a decision affects "the quality of the human environment," to "[e]ncourage and facilitate public involvement" in those decisions.<sup>4</sup> Although the closure<sup>5</sup> and disposal<sup>6</sup> of post office facilities may be "categorically excluded" from environmental evaluations under NEPA, under "extraordinary circumstances" where an excluded action is connected with "other proposed actions with potentially significant impacts," then the proposed closure and disposal of a post office facility can no longer be categorically excluded.<sup>7</sup>

The Postal Service has a stated policy to prepare an environmental impact statement ("EIS") whenever a proposed action is "significant" either in context or intensity.<sup>8</sup> Both forms of significance exist here. Closing historic post offices is contextually significant<sup>9</sup> on a local as well as national level, and the effects are permanent, particularly where the Postal Service does not intend to preserve the historic post office. Additionally, the effects of the closure and disposal of the Stamford Post Office has greater intensity,

---

<sup>3</sup> 42 USC §4321, *et seq.*

<sup>4</sup> 39 CFR 775.2 (c) and (d).

<sup>5</sup> 39 CFR 775.6 (b)(15).

<sup>6</sup> 39 CFR 775.6 (e)(4).

<sup>7</sup> 39 CFR 775.6 (a).

<sup>8</sup> *Id.*, citing 40 CFR 1508.27.

<sup>9</sup> 40 CFR 1508.27 (a).

including a *cumulatively* significant impact because multiple other historic post offices are being closed and sold; this post office is listed on the National Register of Historic Places; and the closure and disposal of the Stamford Post Office “*may cause loss or destruction of significant...cultural, or historical resources.*”<sup>10</sup> Under the NEPA regulations, an EIS must be prepared for intensely significant action even if the beneficial effects outweigh the adverse effects, and “[s]ignificance cannot be avoided by terming an action temporary or by breaking it down into small component parts.”<sup>11</sup>

The Postal Service’s policy is to prepare an environmental assessment (“EA”) for the disposal of real property where there will be a “known change in use to a greater environmental intensity.”<sup>12</sup> The intent to sell the property for large urban development is clearly a “known change in use to a greater environmental intensity.” At a minimum, replacing the relatively small Stamford Post Office with a multi-story, high rise apartment building or other similar structure will create greater levels of pollution and will change the skyline, pose a safety and environmental threat from increased truck and vehicular traffic, and impact “housing, community services, and the area’s economic condition.”<sup>13</sup> There will also likely be a concomitant “effect on the level of noise, smoke, dirt, obnoxious odors, sewage, and solid waste removal,”<sup>14</sup> as well as increased commuter traffic and the loss of job opportunities. These impacts will clearly be the result of the Postal Service’s decision to sell its federal land, land that the Postal Service has held in trust for the American people for many years.<sup>15</sup> Such a sale of public land constitutes a “major federal action.”<sup>16</sup>

It is clear that the Postal Service does not intend to retain ownership of this post office facility, and the decision has been made to sell its historic post offices, constituting an “irretrievable commitment of resources.”<sup>17</sup> The Postal Service’s regulations are clear that the potential environmental issues for a proposed action be properly considered with “[e]arly planning and coordination among postal functional groups,” and early planning entails cooperation during the “early concept stages of a program or project.”<sup>18</sup>

The Postal Service’s intent to sell the historic Stamford Post Office is definite and, in the context of a clear nationwide plan to save costs and

---

<sup>10</sup> 40 CFR 1508.27 (b), emphasis added.

<sup>11</sup> 40 CFR 1508.27 (b)(1) and (7).

<sup>12</sup> 39 CFR 775.5 (b)(10).

<sup>13</sup> 76 ALR Fed 279 at 297, citing S.W. Neighborhood Assembly v. Eckard 445 F.Supp. 1195 (DC Dist Col, 1978).

<sup>14</sup> 76 ALR Fed 279 at 298, citing Hanly v. Kleindienst, 471 F.2d 823 (CA2 NY, 1972).

<sup>15</sup> 76 ALR Fed 279 at 287, citing Davis v. Morton, 469 F.2d 593 (CA 10 NM, 1972), addressing the issue of whether NEPA applied to the lease of restricted Indian lands where the federal government was clearly an interested party to the lease with significant influence and control.

<sup>16</sup> 53 ALR Fed 2d 489 at 540-41, citing Environmental Rights Coalition, Inc., v. Austin, 780 F. Supp. 584 (S.D. Ind. 1991).

<sup>17</sup> 76 ALR Fed 279 Supplement at 96, citing United States v. 27.09 Acres of Land, 760 F. Supp. 345 (SD NY, 1991).

<sup>18</sup> 39 CFR 775.7

dispose of these historic properties, the Postal Service is clearly aware that the demolition or conversion of these historic post offices for urban development is imminent. Where the disposal of federal property is part of a “comprehensive new program”<sup>19</sup> that has a “cumulative or synergistic environmental impact”<sup>20</sup> the Postal Service must also prepare a “comprehensive”<sup>21</sup> or “programmatic environmental impact statement”<sup>22</sup> in addition to the “site specific” environmental evaluations.<sup>23</sup> The Postal Service must consider the environmental effects and consequences of the potential uses for the federal property after it is sold, particularly where the redevelopment plans are known with relative certainty, and it must do so prior to the sale of the property.<sup>24</sup>

ii. The Postal Service is also under a similar, but separate and distinct, obligation to comply with the National Historic Preservation Act (“NHPA”). It has failed to do so regarding the Stamford Post Office, neglecting to involve any of the local organizations that expressed a clear interest in preserving the Stamford Post Office since the first announcement of the Postal Service’s intent to sell in 2010. There can be no reasonable dispute that the Stamford Post Office is historically and architecturally significant, as recognized by its listing on the National Register of Historic Places. Built in 1916, with a 1939 addition, the Stamford Post Office is a unique treasure of great historical significance to the Stamford community, with its Mediterranean Neoclassical architecture. Moreover, the building contains murals commissioned by the Treasury Art Relief project, and the brass work is a shining example of work done by Tiffany & Company. The Postal Service has failed to comply with Sections 106 and 111 of the NHPA by taking insufficient steps to ensure continued public access to this public art, by proposing to completely change the function of that building, by failing to consider the full range of alternatives available, and by its erroneous determination that its action will have no “adverse effect” on this historic property. More particularly, the Postal Service agreed that the 1939 addition to the Stamford Post Office—a contributing portion and integral part of the listing on the National Register of Historic Places—may be demolished by developer/purchaser Cappelli.

iii. The Postal Service is proceeding on a mistaken assumption that it has the equivalent of unencumbered fee simple title to the historic public art

---

<sup>19</sup> 76 ALR Fed 279 at 306, citing Conservation Law Foundation, Inc. v. Harper, 587 F. Supp. 357 (DC Mass. 1984).

<sup>20</sup> 76 ALR Fed 279 at 307, citing Conservation Law Foundation, Inc. v. General Services Admin., 707 F.2d 626 (CA1 R1, 1983).

<sup>21</sup> *Id.*

<sup>22</sup> 76 ALR Fed 279 at 306, citing Conservation Law Foundation, Inc. v. Harper, 587 F. Supp. 357 (DC Mass, 1984).

<sup>23</sup> 76 ALR Fed 279 at 305, citing Conservation Law Foundation, Inc. v. General Service Admin., 707 F.2d 626 (CA1 R1, 1983).

<sup>24</sup> *Id.* at 314.

and architecture of the Stamford Post Office.<sup>25</sup> That art and architecture were created and paid for from public, not postal, funds for the benefit, improvement, and enjoyment of the public which funded it. When the Stamford Post Office building, and certain other GSA-owned properties used by the Post Office Department were transferred to the Postal Service through the subsequent Postal Reorganization Act, that may have effected a transfer of the title of that building, but the art passed subject to the obligations and requirements of a public trust. This public trust creates rights in the public to the art created by it, and for it, in addition to, and over and above the obligations imposed by NHPA. The Postal Service plans show no consideration of, or plans to recognize and protect, this public trust interest.

d. The Postal Service appears to be manipulating the rules and regulations put in place to protect postal patrons in order to try to avoid Commission review of its closure of the current Stamford Post Office.

In creating §404, Congressional legislators expressly stated that they wanted to make sure that community members had a chance to have outside review, and that the factors it identified in subsection (d)(2) were properly considered. Congress cannot have intended that the Commission and the community stand helplessly by after a post office was in fact closed, until the Postal Service decided it was opportune to choose to identify a replacement location.

e. There is no showing that the Postal Service has followed the procedures, or given consideration to the factors identified in 39 USC §404(d), including consideration of the effect of such closing on the community, and on the employees, as well as in regard to the Postal Service's obligation to provide a "maximum degree of effective and regular postal services," or a facility-specific consideration of any imagined economic savings from the proposed closing. Similarly, the Postal Service has failed to follow its internal regulations and procedures in regard to the closing or relocation of the Stamford Post Office. See, 39 CFR Part 241.

f. In particular, under 39 USC §404(d)(2)(A)(i), the Postal Service is required to consider the "effect of a closing or consolidation on the community." The "effect" appears to be broadly defined, not limited to merely the effect on the local postal services or local economy. The Stamford community will be deeply affected by the loss of the historic architecture and art in the public venue of the commonly-utilized post office.

g. The Postal Service has issued, in writings affixed to the Stamford Post Office with very short notice, its determination to close Stamford. Under 39

---

<sup>25</sup> Indeed, in a related closing of another historic post office in Berkeley, California (PRC Docket A2013-9), the Postal Service expressly stated in its Motion to Dismiss at page 8, that "the Berkeley MPO is the property of the Postal Service" which it is empowered to "sell" or "otherwise dispose of" including "any interest therein...."

U.S.C. §404(d)(5) this Honorable Commission needs nothing more to initiate review of that determination.

h. There can be no legitimate purpose in closing a built-to-suit post office with more than adequate internal and external space, and instead to announce that operations will be transferred to some undisclosed location. The Postal Service might build or lease a new post office in Stamford, except that course of action is economically infeasible since it would cost more than the amount the Postal Service paid to maintain the Stamford Post Office.

The National Post Office Collaborate respectfully, but urgently, requests that the Postal Regulatory Commission review and remand the Postal Service's determination regarding the Stamford Post Office.

Further, pursuant to 39 U.S.C. §404(d)(5), the Collaborate requests that this Commission suspend the effectiveness of the Postal Service's determination to permanently close the Stamford Post Office until the final disposition of this appeal.

Respectfully submitted this 2<sup>nd</sup> day of October, 2013.



Harold Hughes  
Michelle Bushman  
Ford & Huff LC  
10542 South Jordan Gateway, Suite 300  
South Jordan, Utah 84095  
801-407-8555  
[hal.hughes@fordhuff.com](mailto:hal.hughes@fordhuff.com)  
[michelle.bushman@fordhuff.com](mailto:michelle.bushman@fordhuff.com)

*On behalf of National Post Office  
Collaborate*

## Exhibit A

POSTMASTER  
STAMFORD POST OFFICE



September 18, 2013

Dear Postal Customer:

At the close of business on Friday, September 20<sup>th</sup>, we will vacate this location – 421 Atlantic Street – as the sale of our building advances.

At this time, we have not yet found a permanent new location. But we will continue to explore all of our alternatives to find a new permanent location to provide you with full postal services within the immediate area.

However, for the short term, PO Box customers will be required to pick up their mail at 317 West Avenue in Stamford, from 9 a.m. until 5 p.m. on Monday through Friday and from 9 a.m. to 2 p.m. on Saturday. Beginning September 28<sup>th</sup>, retail services will also be available at 317 West Avenue from 9 a.m. until 2 p.m. on Saturday. Customers may be required to provide identification to receive their mail.

We are working to build up our 317 West Avenue location to provide our current Atlantic Street PO Box customers with a new PO Box at that site by late fall or early winter. Those PO boxes will be made available at the West Avenue site until we find a new permanent location. No change of address will be required by any current PO Box customers during this transition.

Customers will be required to get a new key once the PO Boxes are available. They should present their old key to postal personnel at that time on order to receive the new key.

Retail services are also available at the following locations:

19 High Ridge Road Stamford CT 06905	Monday through Friday 8:30 a.m. to 5:00 p.m.	Saturday 9:00 a.m. to 2:00 p.m.
370 Hope Street Stamford CT 06906	9:00 a.m. to 5:00 p.m.	
317 West Avenue Stamford CT 06905	9:00 a.m. to 5:00 p.m.	9:00 a.m. to 2:00 p.m. Starting Sept. 28, 2013
24 Camp Avenue Stamford CT 06907	8:30 a.m. to 5:30 p.m.	8:30 a.m. to 2:00 p.m.

You can also go to [www.usps.com](http://www.usps.com) and click on postal locations to find many other locations in the area that sell stamps and other postal products or to order them online.

We apologize for any inconvenience to our customers and look forward to continuing to meet your postal needs well into the future.

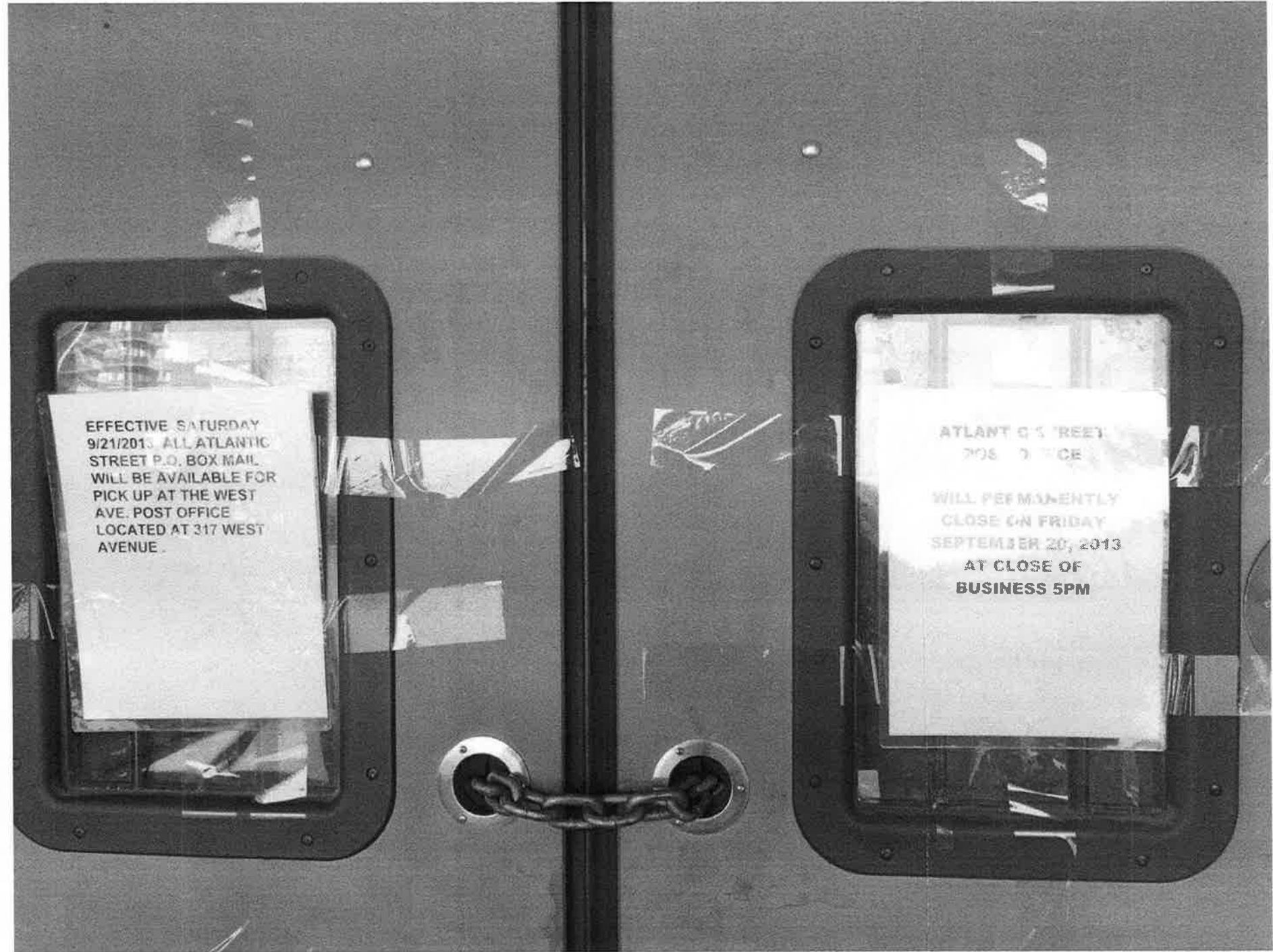
For further assistance you can contact Customer Service Coordinator Lisa Landone at (203)-321-3910.

Sincerely,

Jeff Selamón  
Postmaster  
Stamford CT 06907

24 CAMP AVENUE





**EFFECTIVE SATURDAY  
9/21/2013, ALL ATLANTIC  
STREET P.O. BOX MAIL  
WILL BE AVAILABLE FOR  
PICK UP AT THE WEST  
AVE. POST OFFICE  
LOCATED AT 317 WEST  
AVENUE .**